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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,593	09/29/2003	Jeff C. Morriss	80107.042US1	4486

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LeMoine Patent Services, PLLC
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EXAMINER

BHAT, ADITYA S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,593

Applicant(s)

MORRISS, JEFF

Examiner

Aditya S. Bhat

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-12, 14-21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 8, 13 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 5-7, 9-12, 14-21 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/07/2005 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 5-7, 9-12, 14-21, 23-30 are rejected under 35 U.S.C. 102(a) as being anticipated by Deas et al. (USPUB 2003/0043900).

With regards to claim 5, Deas et al. (USPUB 2003/0043900) teaches a method of testing a driver comprising :

driving a reference channel (page 5, paragraph 0064) with the driver, wherein the reference channel is specified as a worst-case channel that displays a maximum allowable loss versus frequency characteristic; (figure 2-3) and

measuring at least one parameter at an output of the reference channel; (Figure 1) (page 3, paragraph 0072)

comparing a measurement against a requirement to determine if the driver passes a test (page 3, paragraph 0042)

With regards to claims 6, and 19 Deas et al. (USPUB 2003/0043900) teaches the method is performed by computer simulation. (Figure 4-7)

With regards to claims 7, and 21 Deas et al. (USPUB 2003/0043900) teaches the reference channel is specified by s-parameters. (figure 3)

With regards to claim 9 and 10, Deas et al. (USPUB 2003/0043900) teaches the reference channel is further specified by a maximum delay and a minimum delay. (figures 6-7)

With regards to claims 11-12, 17-18, and 27 Deas et al. (USPUB 2003/0043900) teaches the characteristic eye pattern comprises an eye voltage or an eye time. (page 3, paragraph 0045)

With regards to claim 14, Deas et al. (USPUB 2003/0043900) teaches a method comprising

coupling a device under test to a reference channel, wherein the reference channel is specified as a worst-case channel that displays a maximum allowable loss versus frequency characteristic; (figure 2-3)

measuring at least one parameter at an output of the reference channel and (Figure 4-7)

comparing a measurement against a requirement to determine if the driver passes a test (page 3, paragraph 0042)

With regards to claims 15, and 25, Deas et al. (USPUB 2003/0043900) teaches the device under test comprises a receiver. (see figure 1)

With regards to claims 16, and 26, Deas et al. (USPUB 2003/0043900) teaches the device under test comprises a driver. (1, device A ;figure 1)

With regards to claim 20, Deas et al. (USPUB 2003/0043900) teaches the reference channel is defined by a set of reference channel parameters. (Page 1, paragraph 0011)

With regards to claim 23, Deas et al. (USPUB 2003/0043900) teaches the set of reference channel parameters comprises a delay value. (figure 5)

With regards to claim 24, Deas et al. (USPUB 2003/0043900) teaches an apparatus including a medium adapted to hold machine-accessible instructions that when accessed result in a machine performing:

coupling a device under test to a reference channel(20;see figure 1), wherein the reference channel is specified as a worst-case channel that displays a maximum allowable loss versus frequency characteristic; (figure 2-3)

measuring at least one parameter at an output of the reference channel (figure 5)
and

comparing a measurement against a requirement to determine if the driver passes a test (page 3, paragraph 0042)

With regards to claim 28, Deas et al. (USPUB 2003/0043900) teaches electronic system comprising:

a processor capable of simulating a circuit; (page 3, paragraph 0042)and

an SRAM storage medium accessible by the processor, the storage medium to hold instructions that when accessed result in the processor performing (page 3, paragraph 0042)

coupling a device under test to a reference channel (20;see figure 1), wherein the reference channel is specified as a worst-case channel that displays a maximum allowable loss versus frequency characteristic; (figure 2-3)

measuring at least one parameter at an output of the reference channel. (Figure 5) and

comparing a measurement against a requirement to determine if the driver passes a test (page 3, paragraph 0042)

With regards to claim 29, Deas et al. (USPUB 2003/0043900) teaches the device under test comprises a receiver. (page 3, paragraph 0042)

With regards to claim 30, Deas et al. (USPUB 2003/0043900) teaches the device under test comprises a driver. (page 1, paragraph 0013)

Response to Arguments

Applicant's arguments filed 11/07/2005 have been fully considered but they are not persuasive.

Applicant is reminded that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued,

will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

In this instance applicant argues that the prior art of record does not teach a 'known' reference channel. Referring to Deas et al. (USPUB 20030043900) Page 6, paragraph 0078, which states "the exact characteristics of the filter is generally unknown at the start of the calibration process". From this one could infer that an approximate value is known, further one could infer that somewhere after the start of the calibration process the characteristics are known.. Applicant does not specify at what point in the testing process the channel is known, if the exact characteristics are known. Applicant does not specify what is known about the reference channel therefore when taken in its broadest reasonable interpretation the claim reads on the prior art of record. Applicant goes on to argue that the channel is specified as a worst-case channel that displays a maximum allowable loss versus frequency characteristic. Figures 2-3 shows a display of the loss versus frequency characteristic. For the foregoing reasons the rejection is deemed proper.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Abramovitch et al. (USPUB 2003/0063566) teaches identifying and synchronizing permuted channels in a parallel channel bit error rate tester.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S. Bhat whose telephone number is 571-272-2270. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aditya Bhat
January 23, 2006


John Barlow
Supervisory Patent Examiner
Technology Center 2800